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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

DAVID Z.,

Petitioner,

v.

THE SUPERIOR COURT OF ALAMEDA
COUNTY,

Respondent;

ALAMEDA COUNTY SOCIAL
SERVICES AGENCY,

Real Party in Interest.

A109254

(Alameda County
Super. Ct. No. J189641)

David Z. seeks writ review of a court order terminating reunification services and setting a permanency planning hearing for his now one-year-old son Michael R. (Welf. & Inst. Code, § 366.26.)¹ Because substantial evidence supports the order, we deny the petition.

BACKGROUND

Michael R. was detained in April 2004, shortly after his birth, because he tested positive for methadone and had to remain hospitalized for withdrawal symptoms. The child's mother, who tested positive for amphetamines, cocaine and methadone, had an extensive history of substance abuse and criminal and juvenile dependency proceedings,

¹ All statutory references are to the Welfare and Institutions Code.

and her four other children were being raised by relatives. The presumed father, David Z., was a recovering heroin addict who had been on methadone for the past 10 years and also had a lengthy criminal history. After both parents filed waivers submitting to a petition filed under section 300, the juvenile court adjudged the child a ward of the court and ordered reunification services to be provided to the father only. Meanwhile, the child was placed in the home of his maternal aunt and uncle.

At the six-month review hearing, the Alameda County Social Services Agency (Agency) recommended termination of David's reunification services due to his failure to complete required counseling sessions and other elements of his case plan. David contested this recommendation, arguing he had complied with all "bona fide" elements of the plan and other requirements the Agency included were not appropriate or justified. The juvenile court disagreed, however, and terminated reunification services and set the case for a permanency planning hearing pursuant to section 366.26.

DISCUSSION

I. Substantial Evidence Supports Termination of Reunification Services

In his writ petition, David "submits that no basis exists for the Agency's gratuitous inclusion of various aspects of its case plan, and that [his] progress should be measured solely under the bona fide elements of the case plan." Specifically, David challenges the requirement that he undergo a mental health evaluation, arguing there was no evidence any mental health disorder of his contributed to the child's removal. When measured against other requirements of the case plan, David argues his progress was sufficient to warrant continuing services.

"[W]ith regard to the sufficiency of reunification services, our sole task on review is to determine whether the record discloses substantial evidence which supports the juvenile court's finding that reasonable services were provided or offered. [Citations.]" (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.) Under this standard, we must view the evidence in the light most favorable to the Agency, indulging all legitimate and reasonable inferences in support of the juvenile court's order. (*In re Monica C.*

(1995) 31 Cal.App.4th 296, 306.) In this case, ample evidence supports the juvenile court's finding that reasonable reunification services were offered.

The case plans for both parents identified and sought to remedy several problems that led to their loss of custody. (See *Mark N. v. Superior Court* (1998) 60 Cal.App.4th 996, 1010-1011.)² Because David is a recovering heroin addict who continues on methadone maintenance, he was required to remain sober, submit to random drug testing, and attend outpatient substance abuse treatment. Despite these case plan requirements, David refused to participate in any outpatient drug program and missed some scheduled drug tests. The counselor who sees David in connection with his methadone treatment reported that his sessions with David are usually “ ‘quick check-ins’ ” that do not involve any form of individual therapy. The counselor noted David is resistant to counseling and prefers to present himself as a victim, and he believed David was not prepared to be a full-time parent. In addition, David has no plans to stop using methadone.

In the jurisdiction/disposition report, the Agency caseworker also observed that David did not appear to be capable of caring for a newborn baby, and his case plan therefore required attendance at parenting classes. David enrolled in one parenting class but never completed it, and he was eventually discharged due to lack of participation.

David's case plan also required him to undergo a psychiatric or psychological evaluation. He repeatedly refused to do so, however, claiming the Agency was merely “ ‘hunting for a reason not to give his baby back to him.’ ” In light of David's long history of drug abuse and criminal convictions, the evaluation was not an unreasonable element of his case plan. Moreover, the prudence of requiring such an evaluation was confirmed by the counselor at David's methadone clinic, who opined that David presents antisocial characteristics, and by the overtly paranoid attitude David has displayed toward the Agency. For example, David told a case worker he believed “many people in the

² Although the parents did not sign the case plans, preferring to consult their attorneys before doing so, they submitted to the dependency petition based on the Agency's jurisdiction/disposition report, which included their case plans.

system” were to blame for removing the child from his custody, and he accused a social worker and the staff of one clinic of being racist and prejudiced against him because he is Mexican. In many of his meetings with Agency staff, David was agitated and shouting. And even though, according to one caseworker, most of his interactions with service providers have resulted in conflict, David refuses to take any responsibility for his resistant behavior.

Finally, in the last months before the review hearing, David began missing opportunities to visit with his child. David justified these lapses by saying he did not like the foster mother’s father and refused to be in the same room with him. Given David’s failure to display consistent compliance with all of these important aspects of his case plan, the juvenile court properly terminated reunification services.

DISPOSITION

The petition for extraordinary relief is denied on the merits. (Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Because the permanency planning hearing is set for May 16, 2005, our decision is immediately final as to this court. (Cal. Rules of Court, rule 24(b)(3).)

McGuiness, P.J.

We concur:

Parrilli, J.

Pollak, J.